United States Court of Appeals

for the Second Circuit

APPELLANT'S APPENDIX

77-7148

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

Docket No. 77-7148

B

P/S

MICHAEL SALOUKAS,

Plaintiff-Appellant,

-against-

MICHAEL J. CODD, Police Commissioner of The City of New York,

Defendant-Appellee.

UNITED STATES COURT OF APPEALS
FILED
MAY 10 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

On Appeal From The United States District Court For The Southern District of New York

APPELLANT'S APPENDIX

77 MAY 10 A9:12

LEONARD M. WEINTRAUB
Attorney for Appellant
350 Fifth Avenue
New York, New York 10001
(212) 947-6760

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Civ. 5153

DATE	NR.	PROCEEDINGS
9-17-75	1	Filed
11-3-75	2	Filed summons & Marshal's return. Served: Michael J. Codd By: P. Brennan 10-30-75
01-29-76	(3)	Filed ANSWER of deft. to the complaint. (W.B.R.)
03-05-76	--	PRE-TRIAL CONFERENCE HELD BY GRIESA, J
04-13-76	(4)	Filed pltff's affdvt. and notice of motion for an order for summary judgment pursuant to Rule 56(b) FRCP. Ret. 04-27-76
04-13-76	(5)	Filed pltff's memorandum of law supporting motion for summary judgment.
05-13-76	(6)	Filed deft's affdvt. and notice of motion for an order for summary judgment pursuant to Rule 56(b). Ret. 06-01-76.
05-13-76	(7)	Filed deft's memorandum of law in opposition to pltff's motion for summary judgment and in support of deft's motion for summary judgment.
05-25-76	(8)	Filed Pltff's Affidavit in opposition to deft's cross motion for summary judgment. by Leonard M. Weintraub.
05-25-76	(9)	Filed Pltff's Reply Memorandum of Law supporting motion for summary judgment and in opposition to deft's cross motion for summary judgm
03-14-77	(10)	Filed Opinion # 45686-- for the reasons stated, deft's motion for summary judgment dismissing the action is granted. So ordered- GRIESA, J. (m/n)
03-16-77	(11)	Filed Judgment-- that deft. have judgment against pltff. dismissing the action. Clerk (m/n)
03-23-77	(12)	Filed pltff's notice of appeal to the USCA from the Opinion dated 3-11-77, docketed on3-14-77, as Opinion # 45686.. Copy mailed to : Corporation Counsel, City of N.Y. ent. 3-23-77
3-30-77	13	FILED ORDER OF JUDGE GRIESA DTD/3/28/77 GRANTING GRANTING INFORMA PAUPERIS STATUS

BEST COPY AVAILABLE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

MICHAEL SALOUKAS,

Plaintiff,

-against-

MICHAEL J. CODD, Police Commissioner of The City of New York,

Defendant.

----------x

75 Civ. 5136

COMPLAINT

JURISDICTION

FIRST CAUSE OF ACTION

FIRST: The plaintiff has exhausted all his legal remedies in the Courts of the State of New York wherein the cause of action arose.

SECOND CAUSE OF ACTION

SECOND: Plaintiff brings this action under 42 U.S.C. §§ 1983, 1988. The United States District Court has jurisdiction pursuant to 28 U.S.C. § 1343. Plaintiff also seeks declaratory relief pursuant to 28 U.S.C. §§ 2201, 2202.

THE PARTIES

THIRD: Plaintiff, Michael Saloukas, was a police officer

(patrolman) employed by the Police Department of The City of New York.

FOURTH: Defendant, Michael J. Codd, is the Police Commissioner of The City of New York.

THE CLAIM

Plaintiff, Michael Saloukas, complaining of the defendant, Michael J. Codd, Police Commissioner of The City of New York, by his attorney, LEONARD M. WEINTRAUB, duly licensed to practice law in the State of New York and duly admitted to practice before the United States District Court in the Southern District of New York, respectfully shows to this Court the following:

FIRST CAUSE OF ACTION

FIFTH: The action herein arises under the Constitution of the United States wherein there has been a violation of the Double Jeopardy clause of the Fifth (5th) Amendment and the Fourteenth (14th) Amendment to the Constitution in that equal protection and due process of law was not adhered to by the defendant.

SIXTH: That plaintiff was a member of the New York City Police Department from June 1, 1953, at which time he was sworn in as a member of the police force, until he was suspended on August 18, 1971 and subsequently dismissed on July 16, 1974 when a "Final Order of Dismissal" was signed by the defendant.

SEVENTH: That on August 18, 1971, as a result of the plaintiff's arrest, the plaintiff was suspended from the New York City Police Department without salary.

EIGHTH: That on August 30, 1971 plaintiff was indicted by a Federal Grand Jury in the Eastern District of New York and was charged with the following two (2) criminal counts:

1. Conspiring to sell counterfeit money
2. Sale of counterfeit money.

The criminal indictment number is 71CR956.

NINTH: That the plaintiff pleaded not guilty to said charges and he was tried by jury before the Hon. John F. Dooling, Jr., in the United States District Court for the Eastern District of New York. The plaintiff took the stand in his own behalf. After a six (6) day trial, the jury on September 28, 1972 acquitted the plaintiff on both counts of said indictment.

TENTH: That on November 20, 1972, the plaintiff, having been charged with myriad violations by the Police Department pursuant to their rules and regulations, went on trial to defend himself against "charges and specifications" lodged against him by the Police Department on August 18, 1971 and September 17, 1971, respectively.

ELEVENTH: That Deputy Commissioner Philip R. Michael, who was the sole trial examiner and conducted the police hearing

in said case, stated that he was not concerned with trying the plaintiff on all the charges enumerated in the "charges and specifications" and exclusively tried the plaintiff on passing of the counterfeit money; this charge was already adjudicated in the Federal Court by an acquittal.

At the police hearing the following was stated by the trial examiner.

Dept. Com. Michael:

> Just for the sake of the record, Mr. Schimmel brought to my attention some of the charges alleged as being off-duty for certain periods of time, and my statement to Mr. Schimmel was that those charges are not to be bothered with. That as far as I can see this case, the respondent is going to be found guilty of passing counterfeit or not, that's what the charges are concerned with, and the timing of the off duty or off post is really -- doesn't amount to anything. I'm not going to find him guilty of that and not of the others.
>
> (Minutes, p. 53, 54, April 3, 1974)
> (emphasis supplied)

TWELFTH: That the Police Department tried the plaintiff on the exact, precise and same charge wherein the plaintiff had been criminally tried and found not guilty in the United States District Court for the Eastern District of New York.

THIRTEENTH: That plaintiff was found guilty by the Police Department after a protracted hearing in which numerous adjournments took place which caused the hearings to be extended

over a period of nineteen (19) months. Plaintiff was found guilty on June 6, 1974 by Deputy Commissioner Michael; a copy of his decision is annexed hereto and made a part hereof and marked "Exhibit A." A "Final Order of Dismissal" was issued by the defendant on July 16, 1974 in the Borough of Manhattan, County of New York. A copy of Police Commissioner Michael J. Codd's "Final Order of Dismissal" is annexed hereto and made a part hereof and marked "Exhibit B."

FOURTEENTH: On October 25, 1974, that plaintiff duly commenced an Article 78 proceeding pursuant to the New York Civil Practice Law and Rules (CPLR) in the Supreme Court of New York County. Said proceeding was transferred on consent to the Appellate Division, First Department of the Supreme Court. The Appellate Division unanimously dismissed the plaintiff's Article 78 CPLR petition on May 15, 1975. On June 26, 1975, the Appellate Division denied plaintiff's motion for leave to appeal to the Court of Appeals and on September 23, 1974 the Court of Appeals denied plaintiff's motion for leave to appeal to the Court of Appeals. The plaintiff in view of the foregoing has exhausted all his legal remedies in the State of New York and presently looks to the Federal District Court of the United States for equitable relief.

FIFTEENTH: That plaintiff verily believes that double jeopardy, res judicata or collateral estoppel is a complete Constitutional and legal defense against an administrative department trial of the exact, precise and same issue which has previously been adjudicated in a criminal trial by a Federal Court.

SIXTEENTH: That solely and exclusively by reason of plaintiff's illegal dismissal from the Police Department plaintiff has lost his job, together with all vested and beneficial rights, interest and control of his pension for the eighteen (18) years of service with the Police Department.

SEVENTEENTH: That plaintiff further alleges that the reputation of his wife and children, together with his own reputation and good name have been irreparably damaged and destroyed in the community by reason of the invalid dismissal from the Police Department.

EIGHTEENTH: Plaintiff has no adequate remedy at law.

SECOND CAUSE OF ACTION

NINETEENTH: Plaintiff repeats and reiterates each and every allegation of this complaint marked "FIRST" through "EIGHTEENTH" with the same force and effect as though same were fully set forth at length herein.

TWENTIETH: By virtue of the foregoing, defendant has under color of State and Federal law, deprived plaintiff of his rights, privileges and immunities secured to him by the Constitution of the United States. On its face, and as applied, the decision of the Police Commissioner is void as it denies the plaintiff substantive due process, equal protection of the laws and other rights guaranteed to him by the Fifth (5th), Ninth (9th) and Fourteenth (14th) Amendments to the United States Constitution.

TWENTY-FIRST: That plaintiff's basic civil rights to earn a livelihood have been violated; that the defendant discriminated against him in that the Police Commissioner put himself above the law in finding the plaintiff guilty and dismissing him from the Police Department.

TWENTY-SECOND: That plaintiff served the Police Department for eighteen (18) years. His talent, experience and dedication are completely encased in his employment as a police officer.

TWENTY-THIRD: That plaintiff cannot gain steady employment since his suspension and dismissal from the Police Department.

TWENTY-FOURTH: That the defendant's illegal decision with concomitant publicity has put the plaintiff in the position as if he was found guilty in the Federal criminal trial which has

incurred the wrath and animus of the community. Said atmosphere and ill spirit is not consonant with the fundamental right and verdict of our American jury system.

WHEREFORE, plaintiff respectfully demands:

FIRST: That the Court vacate and set aside the "Final Order of Dismissal" signed and issued by the defendant, Michael J. Codd, Police Commissioner of the City of New York, dated July 16, 1974.

SECOND: That the Court order and direct that the defendant restore and reinstate the plaintiff as a police officer nunc pro tunc as of August 18, 1971 with retroactive pay from said date, together with interest.

THIRD: That the Court direct that the plaintiff be given his full and appropriate pension rights, together with all beneficial rights accrued thereuner.

FOURTH: That plaintiff have such other and further declaratory relief as the Court may deem just and proper.

Dated: New York, New York
October 13, 1975

LEONARD M. WEINTRAUB
Attorney for plaintiff
Office and P. O. Address
350 Fifth Avenue
New York, New York 10001
(212) 947-6760

The City of New York

POLICE DEPARTMENT

NEW YORK, N. Y. 10013

U. F. A
P.D. 158-1

---X

In the Matter of Charges and Specifications X

- against - X

Police Officer Michael Saloukas X

Shield No. 2129, 114th Precinct X

---X

CASE NO.

45535 & 45575

At: Police Headquarters
1 Police Plaza
New York, New York 10038

Before: Honorable Philip R. Michael
Deputy Commissioner In
Charge of Trials

A P P E A R A N C E S:

For the Department: Lee Salzberg, Esq.
Department Advocate's Office
1 Police Plaza
New York, New York 10038

For the Respondent: Stanley Schimmel, Esq.-
Schimmel & Nachbar, Esqs.
186 Joralemon Street
Brooklyn, New York 11201

TO: HONORABLE MICHAEL J. CODD
POLICE COMMISSIONER
1 Police Plaza
New York, New York 10038

The respondent is charged with the following specifications:

P.O. MICHAEL SALOUKAS

Case No. 45535

1. Said Police Officer Saloukas, off duty and in civilian clothes, on July 10, 1971, at or about 0030 hours, inside premises Mike's Diner, 22-37 31st Street, Astoria, did wrongfully and without just cause engage a United States Secret Service Agent in conversation for the purpose of negotiating a sale by the respondent to the said agent of a quantity of counterfeit United States notes.

(R & P 1/1.0; 2/37.1; 27/3.1)

2. Said Police Officer Saloukas, performing tour 1600 hours to 2400 hours and assigned as recorder R.M.P. Auto 1277, Sector Mary, on July 10, 1971, at or about 1815 hours inside premises Mike's Diner, 22-37 31st Street, Astoria, did wrongfully and without just cause engage a United States Secret Service Agent in conversation for the purpose of furthering negotiations of a sale of a quantity of counterfeit United States notes as indicated in Specification Number 1.

(R & P 1/1.0; 2/37.1; 27/3.1)

3. Said Police Officer Saloukas, assigned as indicated in Specification Number 2, on July 10, 1971, at or about 2030 hours, inside Mike's Diner, 22-37 31st Street, Astoria, did wrongfully and without just cause accept $2,000 from a United States Secret Service Agent as payment for the delivery of a quantity of counterfeit United States notes and did subsequently return the $2,000 to said agent, the agreement not being consummated at that time.

(R & P 1/1.0; 2/27.1; 27/3.1)

4. Said Police Officer Saloukas, off duty and in civilian clothes, on July 11, 1971, at or about 0030 hours, inside the National Bar and Grill, 42-05 National Avenue, did wrongfully and without just cause meet the said United States Secret Service Agent for the purpose of delivering to said agent a quantity of United States counterfeit notes in furtherance of their agreement as indicated in Specification Number 3.

(R & P 1/1.0; 2/37.1; 27/3.1)

5. Said Police Officer Saloukas, off duty and in civilian clothes, on July 13, 1971, at or about 1525 hours, inside premises Neptune Diner, 31-05 Astoria Boulevard, Astoria, did wrongfully and without just cause accept two thousand dollars as payment from said United States Secret Service Agent for the subsequent delivery of a quantity of United States counterfeit notes.

(R & P 1/1.0; 2/37.1; 27/3.1)

6. Said Police Officer Saloukas, off duty and in civilian clothes, on July 13, 1971, at or about 2015 hours, in front of Mike's Diner, 22-37 31st Street, Astoria, did wrongfully and without just cause deliver to United States Secret Service Agent a quantity of United States counterfeit notes.

(R & P 1/1.0; 2/37.1; 27/3.1)

7. Said Police Officer Saloukas, assigned as indicated in Specification Number 2, on July 10, 1971, did, without just cause and without permission or proper police necessity, absent himself from his assigned sector from 1815 hours to 2000 hours and during said time was present inside Mike's Diner, 22-37 31st Street, Astoria.

(R & P 3/51.0; 3/51.2)

8. Said Police Officer Saloukas, performing tour 1600 hours to 2400 hours and assigned as operator R.M.P. Auto 1277, Sector Mary, on July 10, 1971, did without just cause, and without permission or proper police necessity, absent himself from his assigned sector from 2130 hours to 2200 hours and during said time was present inside Mike's Diner, 22-37 31st Street, Astoria.

(R & P 3/51.0; 3/51.2)

Case No. 45575

1. Said Police Officer Michael Saloukas, Shield Number 2129, 114th Precinct, while on sick report was absent from his sick address, 330 8th Avenue, New York City, without the permission of his District Surgeon from 1405 hours, August 12, 1971 to 2325 hours, August 12, 1971.

(R & P 22/2.1)

P.O. MICHAEL SALOUKAS

DECISION

This case has been on department trial intermittently, from February 21, 1974 until June 6, 1974. The respondent conceded guilt on the minor charges of Case No. 45575, but that is not the matter he need be concerned with. The allegations of Case No. 45535 contend the respondent conspired to sell counterfeit United States currency. I find the evidence of guilt to be overwhelming and beyond reasonable doubt. Accordingly, the respondent's dismissal from the Police Department is being recommended.

The respondent was represented by Mr. Stanley Schimmel who, as counsel for the respondent in the federal criminal counterfeit trial, won an acquittal for the respondent. The department case was prosecuted by Mr. Lee Salzberg. The allegations related to incidents occurring in July, 1971. On August 18, 1971, the respondent was arrested by Secret Service Agents and suspended from duty by the Police Department. The respondent has remained on suspension to date. The respondent joined the force on June 1, 1953.

In my experience, I have not encountered a case with stronger evidence of grave misconduct. It is unnecessary to dwell on the specifics of the proof, since few items are in dispute and the entire record cries out for conviction. The respondent has tendered a defense that is as implausible as it is untrue. The respondent does not seriously challenge

the testimony of Secret Service Agents that the respondent was the go-between for the delivery of $10,000 in counterfeit currency, purchased from the respondent and his partner for $2,000. Unknown to the respondent, the person to whom he sold the contraband was an undercover Secret Service Agent. The respondent would have us believe that he too was operating in an undercover capacity. Several facts utterly destroy the respondent's contention. For example, he gives no explanation why the buyers who the respondent believed to be strongly linked to organized crime were willing, at a moments notice, to deal in counterfeit with the respondent who appeared at the negotiating sessions in uniform. Does the respondent seriously contend the "buyers" were so naive that the respondent needed to take no steps to conceal his undercover role? The respondent hardly was qualified for undercover work. By his own admission, he had no training or experience. He did not even have useful arrest experiences. Furthermore, the respondent advised no one of his plan. What made the respondent think he was going to catch a gaggle of hoodlums single-handed? The most incredible portion of the respondent's tale pertains to the conclusion of his sale. Though the respondent accomplished his so-called objective, and he succeeded on July 13, 1971 in passing the $10,000 counterfeit, the respondent took absolutely no steps to report this incident. Surely, if the respondent's participation to this point had been merely stupid but not dishonest, his horror at facilitating and witnessing this unlawful transaction would have compelled him to make an immediate disclosure. Instead, the respondent left on vacation. Five weeks later,

when he was arrested August 18, 1971 by Secret Service, the respondent had not breached the secrecy of the counterfeit conspiracy. I reject as absurd and foolhardy his post-arrest confession that he engaged in the scheme as an "undercover" agent. The record is replete with numerous other fallacies, all fatal to the respondent's defense.

It is not our function to second-guess the deliberations of juries, which form a sacred part of our jurisprudence. Suffice it to say the respondent is fortunate indeed he was not criminally convicted and jailed for many years.

RECOMMENDATION

1. That the respondent be found guilty of all charges;

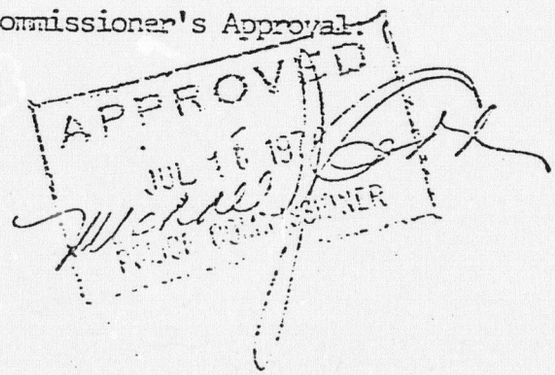
2. That the respondent be dismissed from the New York City Police Department.

Philip R. Michael
Deputy Commissioner In Charge of Trials

PRM/cls

Distribution After Police Commissioner's Approval:

Respondent
Respondent's Attorney
Department Advocate
C.O., 114th Precinct
D.C.P.I.



The City of New York

POLICE DEPARTMENT

NEW YORK, N. Y. 10013

July 16, 1974

In the Matter of the Disciplinary Proceedings	X	
- against -	X	FINAL ORDER
Police Officer Michael Saloukas	X	OF DISMISSAL
Shield No. 2129, 114th Precinct	X	

Police Officer Michael Saloukas, Shield No. 2129, 114th Precinct, having been duly served with written notice, has been tried, on written charges and specifications numbered 45535 and 45575 as set forth on forms P.D. 468-121 dated September 17, 1971 and August 18, 1971 and after a review of the entire record, has been found guilty of all specifications. Now, therefore, pursuant to the powers vested in me by Section 434a-14.0 of the Administrative Code of the City of New York, I hereby dismiss Police Officer Michael Saloukas from the Police Service of the City of New York.

Michael J. Codd
Police Commissioner

JUL 16 1974

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

MICHAEL SALOUKAS,

Plaintiff,

-against-

MICHAEL J. CODD, Police Commissioner of the City of New York,

Defendant..

----------x

ANSWER

S I R:

PLEASE TAKE NOTICE that the defendant, MICHAEL J. CODD, Police Commissioner, by his attorney, W. BERNARD RICHLAND, Corporation Counsel, for his answer to the Complaint herein pleads a general denial upon information and belief.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

Plaintiff's claim is barred by res judicata.

Dated: New York, N.Y.

January 27, 1976

Yours, etc.

W. BERNARD RICHLAND
Corporation Counsel
Attorney for Defendants
Municipal Building
New York, N.Y. 10007

Allen F. London

ALLEN F. LONDON, of Counsel
566-8352/2192

Index No..... Year 19.....

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

MICHAEL SALOUKAS,

Plaintiff,

-against-

MICHAEL J. CODD, Police Commissioner of the City of New York,

Defendant.

ANSWER

W. BERNARD RICHLAND
NORMAN REDLICH,

Corporation Counsel,
Attorney for Deft.

Municipal Building,
New York, N. Y. 10007

Due and timely service of a copy of the within
is hereby admitted.

New York, ...*19*.....

.....
Attorney for

To

....., *Esq.,*
Attorney for

3-30M-518067(73)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

MICHAEL SALOUKAS,

Plaintiff,

-against-

MICHAEL J. CODD, Police Commissioner of The City of New York,

Defendant.

----------X

NOTICE OF MOTION FOR SUMMARY JUDGMENT

75 CIV. 5136

Hon. Thomas P. Griesa

S I R :

PLEASE TAKE NOTICE that upon the annexed plaintiff's statement of material facts, pursuant to Rule 9(g) of the Rules of this Court and the exhibits annexed, the affidavit of LEONARD M. WEINTRAUB, duly sworn to the 12 day of April, 1976, the Memorandum of Law submitted in support of the plaintiff's motion for summary judgment, and upon all other papers and proceedings had herein, the undersigned will move this Court at a Motion Part thereof before Honorable Thomas P. Griesa, United States District Judge, at the United States Courthouse, Foley Square, New York, New York, Room 607M, on the 27 day of April, 1976, at 10:00 A.M. in the forenoon of that day, or as soon thereafter as counsel can be heard, for a summary judgment in favor of the plaintiff and against the defendant pursuant to Rule 56(b) of the Federal Rules of Civil Procedure on the ground that there is no triable issue herein and for such other and

further relief as to the Court may seem just and proper.

Answering affidavits must be served five (5) days before the return day.

Dated: New York, New York
April 12, 1976

Yours, etc.,

/s/

LEONARD M. WEINTRAUB
Attorney for Plaintiff
Office & P.O. Address
350 Fifth Avenue
New York, New York 10001
(212) 947-6760

TO: W. BERNARD RICHLAND, ESQ.
Corporation Counsel
Attorney for Defendant
Municipal Building
New York, New York 10007
By: Allen F. London, Esq.
Of Counsel

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL SALOUKAS,	:	
Plaintiff,	:	RULE 9(g) STATEMENT, MATERIAL FACTS AS TO WHICH PLAINTIFF CLAIMS THERE IS NO GENUINE ISSUE TO BE TRIED
-against-	:	
MICHAEL J. CODD, Police Commissioner of The City of New York,	:	
	:	75 CIV. 5136
Defendant.	:	Hon. Thomas P. Griesa

Pursuant to Rule 9(g) of the General Rules of this Court, plaintiff has moved for summary judgment, submits this statement of material facts as to which plaintiff contends there is no genuine issue to be tried in support thereof.

A. The first ground of plaintiff's motion is that the plaintiff's rights under the Fifth Amendment and the Fourteenth Amendment of the Constitution of the United States were abridged in that plaintiff was indicted, tried and acquitted in the Federal Court; plaintiff was subsequently tried by an administrative agency of government (Police Department) on the same issues, facts and circumstances and found guilty. Since the judgment in the administrative agency hearing was punitive and not remedial, plaintiff's rights under the Fifth and Fourteenth Amendments were abridged. Plaintiff further contends that double jeopardy, res judicata or collateral estoppel is a complete

defense against an administrative department trial of the exact issue, viz. - passing counterfeit money, which issue had already been adjudicated by a Federal Court in a verdict of not guilty by a jury.

B. Plaintiff's second ground is that his basic civil rights were violated in that the Police Department, through the defendant, discriminated against plaintiff by putting itself above the law in finding plaintiff guilty and dismissing him from the Police Department. Plaintiff had a property right in his job which he held for eighteen (18) years.

FIRST: Plaintiff was a police officer (patrolman) employed by the Police Department of the City of New York for eighteen (18) years.

SECOND: Plaintiff was indicted by a Federal Grand Jury in the Eastern District of New York on August 18, 1971. Said Criminal Indictment number is 71 CR 956.

THIRD: Plaintiff was charged in said indictment with the following two (2) criminal counts:

(1) Conspiring to sell counterfeit money; and

(2) Sale of counterfeit money.

Plaintiff was tried before the Honorable John F. Dooling and acquitted by a jury on both counts of the indictment on September 28, 1972, after a six (6) day trial in which plaintiff

took the witness stand in his own defense.

FOURTH: That on November 20, 1972, the plaintiff, having been charged with myriad violations by the Police Department pursuant to their rules and regulations, went on trial to defend himself against "charges and specifications" lodged against him by the Police Department on August 18, 1971, and September 17, 1971, respectively.

That Deputy Commissioner Philip R. Michael, who was the sole trial examiner and conducted the police hearing in said case, stated that he was not concerned with trying the plaintiff on all the charges enumerated in the "charges and specifications" and exclusively tried the plaintiff on passing of the counterfeit money; this charge was already adjudicated in the Federal Court by an acquittal.

At the police hearing the following was stated by the trial examiner.

> Dept. Com. Michael:
>
> Just for the sake of the record, Mr. Schimmel brought to my attention some of the charges alleged as being off-duty for certain periods of time, and my statement to Mr. Schimmel was that those charges are not to be bothered with. That as far as I can see this case, the respondent is going to be found guilty of passing counterfeit or not, that's what the charges are concerned with, and the timing of the off duty or off post is really -- doesn't amount to anything. I'm not going to find him guilty of that and not of the others.
>
> (Minutes, p.53, 54, April 3, 1974)
> (emphasis supplied)

That the Police Department tried the plaintiff on the exact, precise and same charge wherein the plaintiff had been criminally tried and found not guilty in the United States District Court for the Eastern District of New York.

On June 6, 1974, the plaintiff was found guilty by Deputy Commissioner Michael and a "Final Order of Dismissal" was issued by the defendant on July 16, 1974.

FIFTH: On October 25, 1974, plaintiff commenced an Article 78 proceeding pursuant to the CPLR in the New York State Supreme Court, County of New York, challenging his dismissal. (Index No. 16210/74).

SIXTH: The title of said proceeding was as follows:

----------X

In the Matter of the Application of :

MICHAEL SALOUKAS, :

Petitioner :

For a Judgment Pursuant to Article 78 CPLR :

-against- :

MICHAEL J. CODD, Police Commissioner of The City of New York. :

----------X

SEVENTH: On January 7, 1975, the proceeding was transferred on consent to the Appellate Division, First Department of

the Supreme Court; the Appellate Division unanimously dismissed plaintiff's Article 78 petition on May 15, 1975, without opinion.

EIGHTH: On June 26, 1975, the Appellate Division denied plaintiff's motion for leave to appeal to the Court of Appeals.

NINTH: The title of said action was as follows:

----------X

In the Matter of the Application of

MICHAEL SALOUKAS,

Petitioner

For a Judgment Pursuant to Article 78 CPLR

-against-

MICHAEL J. CODD, Police Commissioner of The City of New York.

----------X

TENTH: On September 23, 1975, the New York Court of Appeals denied plaintiff's motion for leave to appeal to the Court of Appeals and plaintiff, therefore, had thus exhausted all legal remedies in the Courts of the State of New York.

ELEVENTH: A copy of the denial of plaintiff's motion in the Court of Appeals for Leave to appeal is attached hereto and marked Exhibit "A".

TWELFTH: Plaintiff at the Court's request will submit any and all legal papers which the Court deems necessary which were submitted to the State Courts in New York in connection with the plaintiff's Article 78 proceedings pursuant to the New York Civil Practice Law and Rules.

THIRTEENTH: On October 17, 1975, plaintiff filed the instant Federal Civil Complaint of two (2) causes of action wherein the first cause of action alleges the violation of the plaintiff's Fifth and Fourteenth constitutional guarantees and and the second cause of action alleges the violation of his Civil Rights pursuant to statutes 42 U.S.C. §§ 1983, 1988 and Declaratory Relief pursuant to 28 U.S.C. §§ 2201 and 2202.

Dated: April 12, 1976

Respectfully submitted,

/s/

LEONARD M. WEINTRAUB
Attorney for Plaintiff
Office and P.O. Address
350 Fifth Avenue
New York, New York 10001
(212) 947-6760

Court of Appeals

1285/474

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the twenty-third day of September A. D. 1975

PRESENT, HON. CHARLES D. BREITEL, *Chief Judge, presiding.*

3

No. No. 764
In the Matter of the Application of Michael Saloukas,

Appellant,

For a Judgment &c.

vs.

Michael J. Codd, Police Commissioner of the City of New York,

Respondent.

&c.

A motion for leave to appeal/to the Court of Appeals in the above cause having been heretofore made upon the part of the appellant herein and papers having been duly submitted thereon and due deliberation thereupon had:

ORDERED, that the said motion be and the same hereby is denied.

EXHIBIT "A"

Joseph W. Bellacosa
Clerk of the Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

MICHAEL SALOUKAS,

Plaintiff,

-against-

MICHAEL J. CODD, Police Commissioner of The City of New York,

Defendant.

----------X

AFFIDAVIT IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

75 CIV. 5136

Hon. Thomas P. Griesa

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

LEONARD M. WEINTRAUB, being duly sworn, deposes and says:

1. That I am an attorney at law and duly licensed to practice law in the State of New York and admitted to practice before the Southern District of New York, and that I represent the plaintiff and am fully familiar with all the facts and circumstances related herein.

2. That this affidavit is submitted in support of plaintiff's motion for summary judgment against the defendant pursuant to Rule 56(b).

3. That plaintiff has exhausted all of his legal remedies in the Courts of New York State and plaintiff has commenced this action in the Federal Court alleging a violation of the double jeopardy clause of the Fifth Amendment and the Fourteenth Amendment (Equal Protection and Due Process of Law) under the Constitution of the United States.

4. That plaintiff further alleges a second cause of action for a violation of his Civil Rights in that he was discriminated against by the Police Commissioner who put himself above the law in finding him guilty and dismissing him from the Police Department.

5. That a complaint was served on the defendant, Michael J. Codd, Police Commissioner of the City of New York, on October 30, 1975.

6. That on January 2, 1976, defendant interposed an answer to the complaint consisting of a General Denial and an affirmative defense of res judicata.

7. That your deponent verily believes that double jeopardy, res judicata or collateral estoppel is a complete constitutional and legal defense against an administrative departmental trial of the exact same issue previously adjudicated in a criminal trial by a Federal Court.

8. That it is clear and well settled that where the result in the departmental trial would be punitive in nature and not remedial, plaintiff's rights under the Fifth Amendment are abridged.

9. That plaintiff, who served in the Police Department for a period of eighteen (18) years, was stripped of his basic civil rights to earn a livelihood.

10. That plaintiff was tried by jury in the United States District Court for the Eastern District of New York before

the Honorable John F. Dooling, Jr., and was acquitted on both counts of said indictment (71 CR 956).

11. That subsequently the defendant tried plaintiff in a departmental trial on the same exact charges and specifications that were already adjudicated in the Federal Court in which plaintiff was acquitted.

12. That your deponent wishes to call the Court's attention to the Memorandum of Law in support of the instant motion and particularly to the case of Helvering v. Mitchell, 303 U.S. 391, which case is cited in your deponent's Memorandum of Law.

13. That your deponent verily states that there is no triable issue herein and defendant's answer and affirmative defense of res judicata should be stricken. That it is also clear that plaintiff cannot be tried on an indictment and acquitted of charges alleged in the indictment and then subsequently tried in another action based on the same facts and circumstances where the penalty was punitive.

WHEREFORE, in view of the foregoing, plaintiff respectfully requests the motion for summary judgment be granted, the answer and affirmative defense of defendant be stricken and for such other and further relief as to the Court may seem fit and proper.

LEONARD M. WEINTRAUB

Sworn to before me this
12 day of April, 1976

GLORIA FIERSTADT
Notary Public, State of New York
No. 24-[illegible]
Qualified in [illegible] County
Commission Expires March 30, 1977

GRIESA, J.

MAY 13 1976

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MAY 13 1976
S. D. OF N. Y.

MICHAEL SALOUKAS,

Plaintiff,

-against-

MICHAEL J. CODD, Police Commissioner of The City of New York,

Defendant.

NOTICE OF MOTION FOR SUMMARY JUDGMENT

75 Civ ~~5137~~ 5136

Hon. Thomas P. Griesa

S I R :

PLEASE TAKE NOTICE that upon the annexed statement of material facts, pursuant to Rule 9(g) of the Rules of this Court, the affidavit of ALLEN F. LONDON, duly sworn to the 27th day of April, 1976, the Memorandum of Law submitted in support of the plaintiff's motion for summary judgment, and upon all other papers and proceedings had herein, the undersigned will move this Court at a Motion Part thereof before Honorable Thomas P. Griesa, United States District Judge, at the United States Courthouse, Foley Square, New York, New York, Room 607H, on the 1st day of June, 1976, at 10:00 A.M. in the forenoon of that day, or as soon thereafter as counsel can be heard, for a summary judgment in favor of the plaintiff and against the defendant pursuant to Rule 56(b) of the Federal Rules of Civil Procedure on the ground that plaintiff's complaint is barred by res judicata and in any event, fails to state a cause of action.

Dated: New York, New York
April 28, 1976

Yours, etc.,

W. BERNARD RICHLAND, ESQ.
Corporation Counsel
Attorney for Defendant
Municipal Building
New York, New York 10007

By Allen F. London
ALLEN F. LONDON, Esq.
Of Counsel

TO:

LEONARD M. WEINTRAUB
Attorney for Plaintiff
Office & P.O. Address
350 Fifth Avenue
New York, New York 10001
(212) 947-6760

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

MICHAEL SALOUKAS,

Plaintiff,

-against-

MICHAEL J. CODD, Police Commissioner of The City of New York,

Defendant.

----------x

RULE 9(g) STATEMENT MATERIAL FACTS AS TO WHICH DEFENDANT CLAIMS THERE IS NO GENUINE ISSUE TO BE TRIED

75 CIV. 5136

Hon. Thomas P. Griesa

Pursuant to Rule 9(g) of the General Rules of this Court, defendant, who has moved for summary judgment, submits this statement of material facts as to which defendant contends there is no genuine issue to be tried, in support thereof.

A: Plaintiff was a police officer (patrolman) employed by the Police Department of the City of New York for eighteen (18) years.

B: On June 6, 1974, plaintiff was dismissed from the Police Department by the Police Commissioner after being found guilty of "charges and specifications" which included charges that the had conspired to sell and participated in the sale of counterfeit Federal Reserve Notes. On October 25, 1974, plaintiff commenced an Article 78 proceeding pursuant to the CPLR in the New York State Supreme Court, County of New York, challenging his dismissal. (Index No. 16210/74).

C: The title of said proceedng was as follows:

----------x

In the Matter of the Application of

MICHAEL SALOUKAS,

Petitioner,

For a Judgment Pursuant to Article 78 CPLR,

-against-

MICHAEL J. CODD, Police Commissioner of The City of New York,

----------x

D: On January 7, 1975, the proceeding was transferred on consent to the Appellate Division, First Department of the Supreme Court; the Appellate Division unanimously dismissed plaintiff's Article 78 petition on May 15, 1975 and confirmed the determination of the Police Commissioner.

E: On June 26, 1975, the Appellate Division denied plaintiff's motion for leave to appeal to the Court of Appeals.

F: The tilte of said action was as follows

----------x

In the Matter of the Application of

MICHAEL SALOUKAS,

Petitioner,

For a Judgment Pursuant to Article 78 CPLR

-against-

MICHAEL J. CODD, Police Commissioner of The City of New York.

----------x

G: On September 23, 1975, the New York State Court of Appeals denied plaintiff's motion for leave to appeal to the Court of Appeals.

H: Plaintiff did not seek certiorari to the Supreme Court of the United States.

I: In paragraph 38 of the plaintiff's petition in the prior proceeding he claimed that:

> being tried and acquited in Federal Court of the criminal charges of (2) counts of counterfeiting should be a legal defense against a trial by the Police Department of the same charges.

Paragraph 9 of the petition is to a like effect. This claim was fully briefed by plaintiff.

J: This claim is identical to that raised in plaintiff's first cause of action in the instant case. However, having litigated this issue in full in State Court, plaintiff is barred by res judicata from reasserting it in this action.

K: It is not clear whether plaintiff raises a claim in his instant complaint that the disciplinary proceedings before the Police Commissioner constituted a deprivation of the right to a speedy trial. If so, that claim too is barred by res judicata, having been fully litigated in the State proceedings.

L: At the pretrial conference held in the instant case, on March 5, 1976, plaintiff's counsel indicated that he did not intend to press the claim raised in his "second cause of action."

Dated: April 28, 1976

Respectfully Submitted

W. BERNARD RICHLAND
Corporation Counsel
Attorney for Defendant
Municipal Building
New York, New York 10007
566-8391, 2192
by

Allen F. London
ALLEN F. LONDON
Assistant Corporation Counsel

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

MICHAEL SALOUKAS,

Plaintiff,

-against-

MICHAEL J. CODD, Police Commissioner of The City of New York,

Defendant.

AFFIDAVIT

75 Civ 5136

Judge Griesa

----------x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

ALLEN F. LONDON, being duly sworn, states

1. I am an Assistant Corporation Counsel, admitted to the bar of this Court, and have been assigned to this matter. I submit this affidavit in opposition to plaintiff's motion for summary judgment and in support of defendant's cross-motion for summary judgment.

2. Defendant's statement pursuant to local rule 9(g) is submitted herewith. The facts recited in said statement include those stated in plaintiff's 9(g) statement. There is no argument as to the material facts contained in plaintiff's statement. Plaintiff's statement, however, contains conclusions of law and unwarranted conclusions of fact in which defendant does not wish to join. Additionally, defendant's motion required the statement of certain further facts. Accordingly, defendant submits its own 9(g) statement in support of its motion for summary judgment.

3. Defendant's motion is based upon the following grounds. Plaintiff's claim is barred by res judicata.

BEST COPY AVAILABLE

Moreover, assuming arguendo that the claim is not so barred, summary judgment should be granted to defendant, plaintiff having failed to state an actionable claim for relief.

Res Judicata:

4. On June 6, 1974, plaintiff was dismissed from the Police Department by the Police Commissioner after being found guilty of "charges and specifications" which included charges that he had conspired to sell and participated in the sale of counterfeit Federal Reserve Notes.

5. On October 25, 1974, plaintiff commenced a proceeding in New York State Supreme Court seeking review of his dismissal from the Police Department. Michael J. Codd, the Police Commissioner and the defendant in this action, was the respondent in that action. (A copy of his petition is annexed hereto as exhibit A). Upon information and belief plaintiff's proceeding was transferred on consent to the Appellate Division of the Supreme Court. The Appellate Division unanimously confirmed the action taken by the Police Commissioner and dismissed the petition in Saloukas v. Codd, 48 AD2d 768 (1975). Leave to appeal was denied by both the Appellate Division and the Court of Appeals. (These decisions are reported in the New York Law Journal of June 30, 1975 (p. 12, col. 4) and 37 N.Y.2d 709 (1975), respectively.). Plaintiff did not seek certiorari to the United States Supreme Court.

6. In paragraph 38 of the plaintiff's petition, he claimed that:

> being tried and acquitted in Federal Court of the criminal charges of (2) counts of counterfeiting should be a legal defense against a trial by the Police Department of the same charges.

Paragraph 9 of the petition is to a like effect.

7. This claim was fully briefed by plaintiff. (See brief for Petitioner-Appellant, annexed hereto as exhibit B, pages 4 et seq.)

8. This claim is identical to that raised in plaintiff's first cause of action in the instant case. However, having litigated this issue in full in State Court, plaintiff is barred by res judicata from reasserting it in this action.

9. It is not clear in the complaint whether plaintiff raises a claim that the disciplinary proceedings before the Police Commissioner constituted a deprivation of the right to a speedy trial (see complaint, paragraph "THIRTEEN") If so, that claim too is barred by res judicata, having been fully litigated in the State proceedings. (See Exhibit A, paragraph 10; Exhibit B, pp. 35 et seq.)

PLAINTIFF'S FIRST CAUSE OF ACTION:

10. Plaintiff claims that his acquittal of criminal charges in Federal District Court operated as a bar against his dismissal for like charges by the New York City Police Department. We submit that the principles of double jeopardy, collateral estoppel, and res judicata do not operate as a bar under the facts of this case. See accompanying memorandum of law. This claim, in addition to being barred by res judicata, should be dismissed as failing to state a cause of action.

PLAINTIFF'S SECOND CAUSE OF ACTION:

11. At the pre-trial conference held in this case on March 5, 1976 plaintiff's counsel represented that he did

not intend to press the claim raised as his "second cause of action". In any event, it is submitted that no claim for relief is stated therein. Plaintiff does not show how he has been denied "substantive due process, equal protection of the laws, and other rights guaranteed by the Fifth (5th), Ninth (9th) and Fourteenth (14) Amendments to the United States Constitution". (complaint, paragraph TWENTIETH).

12. Plaintiff does state that he has lost his job, and has been stigmatized by dismissal (paragraphs TWENTY-SECOND and TWENTY-THIRD of the complaint). These are not actionable absent a denial of due process and plaintiff has not shown that he was denied due process in the proceedings before the Police Commissioner.

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

13. Plaintiff's motion for summary judgment is predicated on his claim that acquittal on federal charges barred his dismissal from the Police Department. Plaintiff's motion should be denied for the same reason that defendant's motion for summary judgment should be granted - that his instant claim is barred by res judicata and, in any event, does not state a cause of action.

WHEREFORE your deponent respectfully requests that the Court deny plaintiff's motion for summary judgment, grant defendant's cross motion for summary judgment, and dismiss the complaint.

Allen F. London

ALLEN F. LONDON

Sworn to before me this

27th day of April, 1976.

CARMELA ACKMAN
Notary Public, State of New York
Qualified in
Commission [illegible]

Notary Public

CARMELA ACKMAN
Notary Public, State of New York
No. 51-[illegible]
Qualified in New York County
Commission expires Mar. 30, 19[illegible]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL SALOUKAS, Plaintiff, -against- MICHAEL J. CODD, Police Commissioner of The City of New York, Defendant.	Index No. 75 Civ. 5136 AFFIDAVIT IN OPPOSITION TO DEFENDANT'S CROSS MOTION FOR SUMMARY JUDGMENT Hon. Thomas A. Griesa

OFFICE OF CORP. COUNSEL
'76 MAY 25 A8:52
CITY OF NEW YORK

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

LEONARD M. WEINTRAUB, being duly sworn, deposes and says:

1. That I am an attorney at law and duly licensed to practice law in the State of New York and admitted to practice before the Southern District of New York, and that I represent the plaintiff and am fully familiar with all facts and circumstances related herein.

2. That in defendant's statement of material facts pursuant to Rule 9(g) and affidavit wherein it is stated that plaintiff's claim in the first cause of action having litigated this issue in full in state court, plaintiff is barred by res judicata from reasserting it in this action; this claim is without merit in fact as said issue was not fully litigated. Plaintiff's Memorandum of Law and Reply Memorandum discusses this point.

3. That the disciplinary proceedings before the Police Commissioner constituted a deprivation of the right to a speedy trial is not an issue in the present case. On March 5, 1976, at the pre-trial conference, deponent stated that the foregoing would not be made an issue so that the litigants could agree and did that there were no triable issues of fact so that appropriate motions for summary judgment could be made and be decided by this Court.

4. That there is no merit that plaintiff's counsel indicated that he did not intend to press the claim raised in his "second cause of action."

5. That the decision of the Appellate Division, 48 A.D. 2d 768 (1975) and the denial of leave to appeal by the Appellate Division and the Court of Appeals as reported in the New York Law Journal on June 30, 1975 (p.12, col.4) and 37 N.Y.2d 709 (1975), respectively were all without opinion.

6. That deponent takes issue with defendant's position in paragraphs 7 and 8 which is fully controverted in plaintiff's Memorandum of Law supporting his motion for summary judgment and Reply.

7. Paragraphs 11 and 12 of defendant's affidavit are fully answered by plaintiff in the Memorandums of Law stated in the above paragraph.

Defendant's Motion for Summary Judgment

8. That deponent verily believes that the law, facts

and equity are most favorable to the plaintiff and that the cross motion for summary judgment should be denied and that plaintiff's motion for summary judgment should be granted.

WHEREFORE, your deponent respectfully requests that the Court deny defendant's cross motion for summary judgment and grant plaintiff's motion for summary judgment.

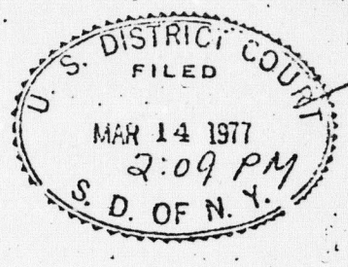
Leonard M. Weintraub

Sworn to before me this
24th day of May, 1976

Gloria Eisenstadt

GLORIA EISENSTADT
Notary Public, State of New York
No. 24-4195755
Qualified in Kings County
Commission Expires March 30, 1977

Codd



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- -X

MICHAEL SALOUKAS,

Plaintiff,

v.

MICHAEL J. CODD, Police Commissioner of The City of New York,

Defendant.

- -X

75 Civ. 5136

OPINION

45686

GRIESA, J.

Defendant's motion for summary judgment dismissing the action is granted.

Plaintiff was a New York City police officer. On August 30, 1971 he was indicted in the federal court in the Eastern District of New York on counterfeiting charges. He was tried and acquitted.

At about the same time as the indictment, the Police Department made disciplinary charges against plaintiff in connection with the alleged counterfeiting. The departmental hearing was delayed, but finally on

June 6, 1974 plaintiff was found guilty. As a result, plaintiff was dismissed from the Police Department on July 16, 1974.

On October 25, 1974 plaintiff commenced an Article 78 proceeding in state court. The case was dismissed by the Appellate Division. Both the Appellate Division and the New York Court of Appeals denied leave to appeal to the latter court. Plaintiff did not seek certiorari in the United States Supreme Court.

Plaintiff brings the present action to attack his dismissal from the Police Department. He claims that the departmental hearing violated his protection against double jeopardy. He further argues that his acquittal on the criminal counterfeiting charge was a bar to the Police Department proceedings on theories of res judicata and collateral estoppel.

Summary judgment must be granted dismissing the complaint. The authorities are clear that acquittal in a criminal action is no bar to an administrative proceeding such as occurred here within the Police Department. Also, the state court action is res

judicata, and thus a bar to the present federal action.

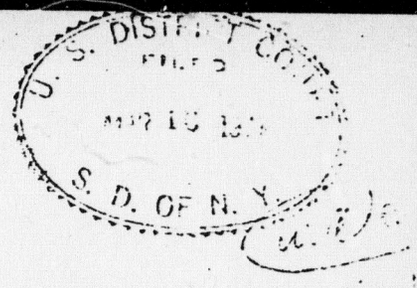
The action is dismissed.

So ordered.

Dated: New York, New York
March 11, 1977

Thomas P. Griesa

THOMAS P. GRIESA
U.S.D.J.



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- X

MICHAEL SALOUKAS

Plaintiff :

-against- :

MICHAEL J. CODD, Police Commissioner of The City of New York :

Defendant :

- X

75 Civil 5136 (TPG)

JUDGMENT

Defendant having moved the Court for summary judgment, pursuant to Rule 56, of the Federal Rules of Civil Procedure, and the said motion having come on to be heard before the Honorable Thomas P. Griesa, United States District Judge, and the Court thereafter on March 14, 1977, having handed down its opinion granting the said motion, it is,

ORDERED, ADJUDGED and DECREED: That defendant MICHAEL J. CODD, Police Commissioner of the City of New York have judgment against plaintiff MICHAEL SALOUKAS dismissing the action.

Dated: New York, N.Y.
March 16, 1977

Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------X

MICHAEL SALOUKAS, : 75 Civ. 5136

Plaintiff, :

-against- :

MICHAEL J. CODD, Police Commissioner of the City of New York, :

Defendant. :

----------X

S I R :

PLEASE TAKE NOTICE, that the plaintiff, MICHAEL SALOUKAS, appeals to the United States Court of Appeals, Second Circuit, from the opinion of the HON. THOMAS P. GRIESA, dated March 11, 1977, docketed on March 14, 1977, as Opinion #45686.

Dated: March 21, 1977

/s/

LEONARD M. WEINTRAUB
Attorney for Plaintiff
Office & P.O. Address
350 Fifth Avenue
New York, New York 10001
212 947-6760

TO: W. BERNARD RICHLAND, ESQ.
Corporation Counsel of
The City of New York
Attorney for Defendant
Municipal Building
New York, New York 10007

CLOSED (13) (CRIESA)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

MICHAEL SALOUKAS,

Plaintiff,

-vs-

MICHAEL J. CODD, Police Commissioner of the City of New York,

Defendant.

----------x

U.S. DISTRICT COURT FILED MAR 30 1977 S.D. OF N.Y.

75 Civ. 5136 T.P.C.

ORDER

Upon the attached affidavit of Michael Saloukas, sworn to on March 25, 1977 and the affirmation of Leonard Weintraub, affirmed March 25, 1977 and good cause being shown, it is hereby

ORDERED, that plaintiff Michael Saloukas herein may proceed to appeal to the U.S. Court of Appeals in forma pauperis.

Dated: New York, New York
March 28, 1977

U.S.D.J.

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